

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
VALLEY INLAND PACIFIC)
CONSTRUCTORS, INC.,)
Appellant,)
vs.)
SOUTHWEST AIR POLLUTION)
CONTROL AUTHORITY,)
Respondent.)

PCHB No. 448

FINAL FINDINGS OF FACT,
CONCLUSION OF LAW
AND ORDER

THIS MATTER being an appeal of a \$100.00 civil penalty citing both Valley Inland Pacific Constructors, Inc., and the City of Vancouver Public Works for an odor bearing emission violation of respondent's Regulation II having come on regularly for hearing before the Pollution Control Hearings Board on the 28th day of December, 1973, at Vancouver, Washington; and appellant Valley Inland Pacific Constructors, Inc. did not appear and respondent Southwest Air Pollution Control Authority appearing through its attorney, James D. Ladley; and Board members present at the hearing being Walt Woodward, presiding officer,

1 William A. Gissberg; and the Board having considered the sworn
2 testimony, exhibit, records and files herein and having entered on the
3 3rd day of January, 1974, its proposed Findings of Fact, Conclusion
4 of Law and Order; and the Board having served said proposed Findings,
5 Conclusion and Order upon all parties herein by certified mail, return
6 receipt requested and twenty days having elapsed from said service; and
7 The Board having received no exceptions to said proposed Findings,
8 Conclusion and Order; and the Board being fully advised in the premises;
9 now therefore,

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
11 Findings of Fact, Conclusion of Law and Order, dated the 3rd day of
12 January, 1974, and incorporated by this reference herein and attached
13 hereto as Exhibit A, are adopted and hereby entered as the Board's
14 Final Findings of Fact, Conclusion of Law and Order herein.

15 DONE at Lacey, Washington, this 29th day of January, 1974.

16 POLLUTION CONTROL HEARINGS BOARD

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18 WALT WOODWARD, Chairman

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20 W. A. GISSBERG, Member
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FINDINGS OF FACT,
CONCLUSION AND ORDER

This matter, the appeal of a \$100.00 civil penalty citing both Valley Inland Pacific Constructors, Inc., and the City of Vancouver Public Works for an odor bearing emission violation of respondent's Regulation II came before the Pollution Control Hearings Board (Walt Woodward, presiding officer, and William A. Gissberg) at a hearing in the City Hall, Vancouver, Washington, at 1:00 p.m. December 28, 1973. Appellant did not appear although the start of the hearing was delayed for one-half hour until 1:30 p.m. Respondent appeared through James D. Ladley. Thomas Archer, Kelso court reporter, recorded the proceedings.

EXHIBIT A

1 Mr. Ladley said that respondent wished to abandon its prosecution
2 of the City of Vancouver Public Works in this matter. He moved that
3 the City of Vancouver Public Works be stricken from further consideration
4 in these proceedings. The Board granted the motion.

5 One witness was sworn and testified and one exhibit was admitted.

6 From testimony heard and exhibit examined, the Pollution Control
7 Hearings Board makes these

8 FINDINGS OF FACT

9 I.

10 On August 1, 1973, appellant engaged in construction work at the
11 Westside Sewage Treatment Plant in Vancouver, Clark County, caused odor
12 bearing gases to be emitted which reached a scentometer reading of
13 number 4. In connection with this, respondent served on appellant a
14 notice of violation, citing Section 5.03 of respondent's Regulation II,
15 and levying a civil penalty of \$100.00, which is the subject of this
16 appeal.

17 II.

18 Section 5.03 of respondent's Regulation II makes it unlawful to
19 cause the emission of odorous gases which exceed a scentometer reading
20 of number 2 in other than residential and commercial areas.

21 From these findings, the Pollution Control Hearings Board comes
22 to this

23 CONCLUSION

24 Appellant was in violation of Section 5.03 of respondent's
25 Regulation II in Vancouver, Clark County, on August 1, 1973 and the
26 \$100.00 civil penalty invoked therefore is reasonable.

27 FINDINGS OF FACT,
CONCLUSION AND ORDER

1 Therefore, the Pollution Control Hearings Board issues this

2 ORDER

3 The appeal is denied and the \$100.00 civil penalty is sustained.

4 DONE at Lacey, Washington, this 3rd day of January, 1974.

5 POLLUTION CONTROL HEARINGS BOARD

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7 WALT WOODWARD, Chairman

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9 W. A. GISSBERG, Member

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26 FINDINGS OF FACT,
27 CONCLUSION AND ORDER